

DEC 13 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LABIB YOUSEF MAKRAM,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-71065

Agency No. A79-355-970

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, TASHIMA, and FISHER, Circuit Judges.

Labib Yousef Makram, a native and citizen of Egypt, petitions pro se for review of the Board of Immigration Appeals' ("BIA") dismissal of his appeal from an Immigration Judge's denial of his applications for asylum, withholding of

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252, and deny the petition for review.

Makram has not challenged the agency’s determination that he is ineligible for asylum due to an aggravated felony. *See* 8 U.S.C. § 1158(b)(2)(B)(i). We therefore confine our review to withholding of removal and CAT relief.

Even accepting Makram’s testimony as credible, a reasonable factfinder would not be compelled to find that he was persecuted on account of his Christian faith. Makram did testify that an interrogator referred to his Christianity and wounded his hand because it had a tattoo of the cross. In the wider context of Makram’s alleged detention and abuse, however, the record does not compel the conclusion that he “produce[d] evidence from which it is reasonable to believe that the harm was motivated, at least in part, by an actual or implied protected ground.” *Borja v. INS*, 175 F.3d 732, 736 (9th Cir. 1999) (en banc) (quoting *In re T-M-B*, 21 I. & N. Dec. 775 (BIA 1997) (en banc)). The basis for Makram’s arrest and detention was an allegation of theft purportedly levied against him by the Saudi Arabian government.

Makram also did not meet his burden of providing evidence that would support an objectively reasonable fear of persecution on account of his religion. *See Singh v. INS*, 134 F.3d 962, 966 (9th Cir. 1998) (internal quotation marks and

citation omitted). There is inadequate evidence in the record of continuing interest in Makram by the Egyptian authorities. We therefore uphold the BIA's conclusion with respect to withholding of removal that Makram failed to demonstrate that it is more likely than not that he would be persecuted as a Christian if returned to Egypt. *See Lim v. INS*, 224 F.3d 929, 938 (9th Cir. 2000).

Makram is not entitled to CAT relief because he did not show that it is more likely than not that he would be tortured if returned to Egypt. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.